4.—Sri H. M. CHANNABASAPPA (Minister for Public Works and Electricity).—

(*a*) Yes.

(*b*) The question of sanction will be considered, if the project is found feasible.

PUBLIC SERVICE COMMISSION (CONDUCT OF BUSINESS AND ADDITIONAL FUNCTIONS) BILL, 1958.

Presentation of Report of the Select Committee.

Sri B. D. JATTI (Chief Minister).—I beg to present the report of the Select Committee on the Public Service Commission (Conduct of Business and Additional Functions) Bill, 1958.

REPORTS OF THE PUBLIC SERVICE COMMISSION FOR THE YEARS 1954 TO 1957.

(Scope of Discussion)

Mr. SPEAKER.—Before we take up the discussion of the reports on the working of the Public Service Commission for the years 1954 to 1957, I would like to indicate very briefly the permissible limits of such discussion. On a number of occasions in the past, the question has been raised as to how far members can refer to the Public Service Commission either in debate or during question hour. I hope what I will say will set at rest all doubts on this point.

I would refer at the outset to the provisions of the Constitution relating to the Union Public Service Commission. Relevant articles are the following: 316 which relates to the appointment of the Chairman and other members of the Commission by the Governor of the State; 317 which makes provision for suspension and removal of members; 318 which refers to regulation as to conditions of service of members and staff of the Commission; 320 sets out the functions of the Commission and the need to consult the Commission on matters specified therein and for empowering the Governor to make regulations specifying the matters in which either generally or in any particular class of case or in any particular circumstances it shall not be necessary for a Public Service Commission to be consulted. Article 323 requires that the State Commission should present annually to the Governor a report of the work done and the Governor has on receipt of such report to cause a copy thereof to be laid before the Legislature together with a memorandum explaining as respects the cases, if any, where the advice of the Commission was not accepted.

I would particulary invite attention to article 317 under which a Member of the Public Service Commission can only be removed from office except in certain cases specified in article 317 (3) by an order of the President on the ground of misbehaviour after the Supreme Court has on enquiry reported that such Member ought to be removed on such ground.

We have provided in our rules, namely, 288 (*v*) that a member while speaking shall not reflect upon the conduct of persons in high authority unless the discussion is based on a substantive motion drawn in proper terms. The explanation to this subrule reads as follows: "the words 'persons in high authority' means persons whose conduct can only be discussed on a substantive motion drawn in proper terms under the Constitution or such other persons whose conduct in the opinion of the Speaker should be discussed on a substantive motion drawn up in terms to be approved by him."

A reading of these articles and our rules therefore makes it clear that criticism of suggestions or decisions of the Commission will not be relevant because the Commission is a constitutional authority.

In the Rajya Sabha when the consideration of the U. P. S. C. reports was before that House, it was clearly ruled on 22nd December 1954 as follows:—

"Any debate in Parliament may rightly include criticism of Government

for any acts or omissions in the exercise of the powers and duties specified above (that is, in the several articles of the Constitution), and will be certainly relevant but the suggestions or actions or the decisions of the Commission will not be relevant. Any criticism of the suggestions or decisions of the Commission will not be relevant because it is a constitutional authority. I hope the Members will bear that in mind. You can criticise the Government." Elaborating this point further the Chair observed: "Under the articles that I have quoted, the powers of the Government and the Commission are defined. Any action of the Government in not implementing or accepting the recommendations of the Commission is open for criticism. But criticism of the recommendations made by the Commission or the actions of the Commission or of particular members of the Commission will not be relevant." When members agree that there should be no criticism of the members of the Commission but wanted to know why criticism of the Commission as such would not be in order, the Chair again said that since the Commission was a constitutional authority and the constitution also prescribes the procedure by which members can be removed, there could not be criticism in respect of either a Member or the Commission as a whole.

This is also in accordance with the normal parliamentary practice that it is the Ministers who are responsible to the House and are subject to criticism which they will be in a position to meet because they are in the House. Other authorities who are not in the House cannot defend themselves and particularly in the case of a constitutional authority where the Constitution itself prescribes the mode for their removal, such criticism would be out of order. Criticism, if any, can only be directed against the Ministers.

The position is the same in other Legislatures also. I, therefore, request the Hon'ble Members to confine themselves in their debate to the limits I have indicated above.

2 P.M.

Sri KADIDAL MANJAPPA (Minister for Revenue).—May I take it that Ministers are to be held responsible for the acts of omission and commission of the Commission?

Mr. SPEAKER.—I did not say that.

Sri M. RAMAPPA (Harihar).—I rise to a point of order. It is said that these Reports of the Public Service Commission are laid on the Table under article 323 (2) of the Constitution. My submission is that it is not laid as required by article 323 (2) because that article says that in cases where Government have not accepted the advice of the Commission, it should be accompanied by a memorandum. In a number of cases the Government have not accepted the advice of the Commission, but we have not been supplied with any memorandum for that.

Mr. SPEAKER.—It has been supplied to members. The memorandum is contained in a separate slip.

†Sri M.C. NARASIMHAN (Kolar Gold Fields).—Sir, you were pleased to say that no reference could be made to the Public Service Commission. Is it because it is a statutory authority or is it a constitutional authority that reference cannot be made to it? My second difficulty is this. Your ruling cannot have retrospective effect because we have already discussed and made reference to the P. S. C. both by way of questions and while discussing the P. S. C. Bill. Would this preclude any reference to the P. S. C. while discussing the Select Committee report on the P. S. C. Bill?

Mr. SPEAKER.—Of course, the ruling has been given today, but the ruling, though given today, has its relevance for all time. The ruling might have been given on a certain day, but the facts are there and the procedure is also indicated there. If Hon'ble Members think that it is applicable only from today it is not correct; because I am called upon to give my ruling only today and that is why I have given it this day.

So far as the constitution of the Commission is concerned, it is a constitutional body. That goes without

(MR. SPEAKER)

saying and according to the provisions of the Constitution, you can take some action only on a substantive motion.

Sri J. B. MALLARADHYA (Nanjangud).—Is there a restriction on the members to comment on the action of the Commission itself? This ruling is all right so far as the reports of the Commission are concerned, but will there be the same restriction when the Bill is discussed?

Mr. SPEAKER.—Today we are discussing the reports. What is true of the reports will also hold good in other cases also, but as far as the Bill is concerned, there is a little bit of wider scope because it is for extending the functions.

Sri M. RAMAPPA.—Are we not entitled to criticise if the P. S. C. does not conform to the provisions of the Constitution itself?

Mr. SPEAKER.—I have already said that the recommendations and the decisions of the Commission cannot be criticised.

Sri G. VENKATAI GOWDA (Palaiyam).—If they have not conformed to the provisions of the Constitution, are we not entitled to bring home that fact?

Mr. SPEAKER.—On a substantive motion.

Sri M. C. NARASIMHAN.—Under article 323 (3) Government must give the reason why they have not accepted the advice of the P. S. C. A difficulty may arise like this. Suppose I feel convinced that the action of the Government is correct and the advice of the P. S. C. is wrong and *prima facie* foolish. Am I not entitled to make out that the action of the Government is right and the advice of the P. S. C. is wrong? If your interpretation is to be literally followed, then a difficulty will arise.

Mr. SPEAKER.—I have only said that the recommendations and the decisions of the Commission cannot be criticised.

Sri G. VENKATAI GOWDA.—Suppose the recommendations do not conform to the provisions of the Constitution. Are we not entitled to make out that?

Mr. SPEAKER.—The members may feel that the decisions of the P. S. C. are not correct, but they cannot criticise them.

Sri G. VENKATAI GOWDA.—Then how to bring home the facts to Government?

Mr. SPEAKER.—There is always that difficulty.

Sri G. VENKATAI GOWDA.—If they do not conform to the provisions of the Constitution what are we to do? It will be like *Trisanku Swirga*.

Mr. SPEAKER.—I understand there is a genuine difficulty.

Sri J. B. MALLARADHYA.—If there is any action of the Commission which offends against any provisions of the Constitution, we will certainly make a reference to it.

Mr. SPEAKER.—Reference can be made.

I refer Hon'ble Member to Rule 296. In this case, I do not want to prescribe the time-limit. But, it has to be finished to-day.

Sri J. B. MALLARADHYA.—Government have taken such a lot of time to place the report. I request the Chair kindly to be a little more lenient in the matter of fixing time limit.

Mr. SPEAKER.—I would like to know how many members would like to take part.

(*Ten Members rose*).

Ten members want to take part. Anyhow, I request the Hon'ble Members, though I do not want to limit the time in respect of individual speeches, to keep in view that we have to dispose of this matter to-day.

DISCUSSION REPORTS OF THE PUBLIC SERVICE COMMISSION FOR 1954 TO 1957.

Motion to consider.

Sri V. SRINIVAS SHETTY (Coondapur).—Sir, it is just a *post-mortem* examination of these reports. As my